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STATE FOR EUR/UMB

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TAGS: PGOV PREL KDEM PINR MD

SUBJECT: ACTING PRESIDENT PREFERS NEW  
CONSTITUTION TO ELECTIONS, READY TO DEFY ALLIANCE  
PARTNERS

Classified by: Ambassador Asif J. Chaudhry for  
reasons 1.4 (b) and (d)

¶1. (C) Summary: In a February 3 meeting, Acting President Ghimpu told the Ambassador that he hoped to address Moldova's difficulties in electing a President through constitutional reform. Ghimpu said there were serious disagreements within the governing alliance over holding repeat parliamentary elections, with Prime Minister Filat and former presidential candidate Lupu in favor, while he and Our Moldova (AMN) leader Urechean would prefer to avoid such balloting. Ghimpu ruled out the possibility of amending the Constitution through a parliamentary vote, and said he favors introducing a new Constitution through a popular referendum.

¶2. (C) In a separate meeting later that day, Constitutional Court Chairman Pulbere acknowledged the need to change the mechanism for electing a President, but suggested that a popular referendum on the topic might likely fail. More importantly, Pulbere believed any such referendum should be held after repeat elections, asserting that any amendments to the Constitution required a six-month period for review by his Court. End Summary.

Ghimpu: Avoid Elections, Initiate Referendum

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¶3. (C) In a February 3 meeting, Acting President Mihai Ghimpu told Ambassador Chaudhry that he believed early parliamentary elections would be "risky" and even "suicidal," arguing that the Communist Party (PCRM) might come back to power, particularly if they were seriously supported by the Russians. Furthermore, Ghimpu said that if he left the presidency, Moldova's policy on the important issues of language and identity would shift (Ghimpu favors calling the state language Romanian, not Moldovan). "Why fight for power if we already have power?," Ghimpu asked, adding that he was looking at all legal means to reform the Constitution to elect the President, and thus avoid repeat parliamentary elections.

¶4. (C) Ghimpu ruled out the possibility of Parliament amending the Constitution, both because this required a two-thirds majority of 67 votes, and because of the requirement of a six-month period for the Constitutional Court to review the draft of proposed amendments after the initial parliamentary vote. Instead, he suggested that a parallel means of adopting laws, including a Constitution, existed, through the will of the

people as expressed in a referendum. This procedure was envisioned in the Electoral Code in the paragraph on referendums, which provided for the possibility of approving laws referring to the character of the state and the adoption of the Constitution by popular vote. Ghimpu added that this issue had to be decided before June 16, when he would be required to dissolve the Parliament. (Note: the Acting President is required to dissolve Parliament, but since it cannot be dissolved twice within one year, he cannot do it before that date.)

¶15. (C) Ghimpu also noted that one law would have to be changed in order to successfully carry out a referendum. Under the current legislation, a referendum is only approved if 50 percent plus one of the entire electoral body votes in favor, while Ghimpu believed a referendum had a better chance of passing if the law were changed to require 50 percent plus one of those voting. Ghimpu told the Ambassador that he had already begun preparations for changing that article (but did not specify what he had done). (Note: We understand that the constitutional commission headed by Ghimpu is proposing as many as 80 constitutional amendments, which essentially will amount to a new Constitution.)

#### Disagreements Within Alliance

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¶16. (C) Ghimpu conceded that there were serious disagreements within the Alliance on this issue. Filat and Lupu were ready for elections, while both he and Urechean were opposed. Ghimpu said he was disappointed with the failure of the Alliance leaders to agree -- in fact, he said, the Alliance "could disappear" unless the issue was resolved -- but said the leaders continued to try to negotiate a common position. Nevertheless, he suggested that he would not accede to repeat elections, even if all his Alliance partners agreed to them.

¶17. (C) Ghimpu further complained that the interests of the Alliance leaders were "diverging." Ghimpu said that Filat had not returned his phone calls over the past several days, and he also blamed Filat for "destroying" Urechean's party (Note: the AMN split recently). Filat was trying to gain AMN votes, he said, but in the end, AMN's demise would benefit the PCRM. Ghimpu also stressed that he remained loyal to the Alliance commitment to support the presidential candidacy of Lupu, who had provided the votes to allow the Alliance to take power.

#### Constitutional Court Chair Has Different View

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¶18. (C) In a separate meeting later in the day, Constitutional Court Chair Dumitru Pulbere opined that there needed to be a change in the mechanism for electing a President, or else Moldova could remain in political limbo. Pulbere, who was an MP from 1998-2001, believed that "a big mistake" was made in 2000 when the Constitution was amended to have Parliament elect the President. Thus, concluded Pulbere, it would be judicially correct to "re-amend" that specific article, and return to a popular vote for president.

¶19. (C) However, Pulbere said, the problem was how to go about doing this. A constitutional

amendment in Parliament would require 67 votes, which neither side would give the other, and hence was impossible. And even if Parliament prepared a draft law on amending the Constitution, it was required to ask the Constitutional Court for its opinion and wait a mandated period of six months before any vote.

¶10. (C) Regarding a referendum, Pulbere said that it could be used to introduce a new Constitution, but not to amend an existing one. Pulbere opined that in the current unstable political situation, it also was unwise to introduce a new Constitution hurriedly; in addition, he said, the PCRM would likely boycott a referendum, making passage unlikely due to low voter turnout. Furthermore, since Ghimpu was required to disband Parliament as of June 16, triggering new elections, there was no time to change the Constitution.

¶11. (C) Pulbere therefore concluded that repeat elections must take place. He suggested that a referendum on Constitutional change could be held, but believed this should only be done after repeat elections, and cautioned that any changes would still require the six month waiting period. Pulbere also noted the lack of unity within the Alliance over the issue, and suggested that introducing a new Constitution would open a Pandora's box of controversial questions, such as the language issue (Pulbere hypothesized that in a referendum, 70-80 percent of the nation would prefer to call their language Moldovan, not Romanian).

Comment

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¶12. (C) The constitutional questions surrounding changing the rules to elect a President are complex and murky even for legal experts. While Alliance leaders told the Ambassador in mid-December that they would examine all legal avenues to amend the Constitution to ensure Lupu's election -- and avoid a repeat parliamentary vote -- Ghimpu is clearly out in front of the others in pushing the issue. However, the GOM has also

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asked the Venice Commission for a legal opinion. Should (as some here expect) the Commission recommend against any extra-parliamentary changes, it is unlikely that Filat and Lupu will support Ghimpu's endeavors to avoid elections.

¶13. (C) In addition, given Lupu's more sanguine attitude toward new elections, Ghimpu's approach leaves him open to charges that he is self-servingly seeking to cling to power, and makes it appear that he is deeply concerned about his party's showing in a repeat parliamentary vote. His comments to the Ambassador also indicate that his relationship with Filat is increasingly tense.

CHAUDHRY